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Before the  
**FEDERAL COMMUNICATIONS COMMISSION**  
Washington, D.C. 20554

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FEDERAL COMMUNICATIONS COMMISSION  
OFFICE OF SECRETARY

In the Matter of

Implementation of the  
Pay Telephone Reclassification  
and Compensation Provisions of  
Telecommunications Act of 1996

CC Docket No. 96-128

DOCKET FILE COPY ORIGINAL

To: The Commission

**PETITION FOR RECONSIDERATION**

PageMart II, Inc. ("PageMart"), submits this its Petition for Reconsideration ("Petition") of the Report and Order, in the above captioned proceeding. PageMart joins the Personal Communications Industry Association ("PCIA") in its request for reconsideration relating to a "carrier pays" compensation scheme for payphone service providers ("PSPs") and requests the institution instead of a calling party pays, or coin drop, compensation scheme. In the alternative, PageMart requests that the Commission reconsider the use of a portion of the subscriber line charge to compensate PSPs.

PageMart is a nationwide CMRS provider, with headquarters in Dallas, Texas. It is licensed by the Commission to provide messaging services through-out the United States. Because subscribers and non-subscribers use payphones to access its paging service, PageMart will be affected by any Commission decision in this matter.

In support of this Petition, the following is respectfully shown:

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## **INTRODUCTION**

1. In the rulemaking proceeding in the referenced Docket, PCIA and various other messaging service providers<sup>1</sup> argued that a calling party pays scheme was easy to administer and equitable. PCIA and Airtouch Paging, Inc., Comments at 14 n. 52, also stated that such a scheme would not conflict with the Telephone Operator Consumer Services Improvement Act ("TOCSIA"). Other parties proposed compensation through subscriber line charge.<sup>2</sup> However, in the Report and Order, the Commission adopted a "carrier pays" system, placing the payment obligation on "the primary economic beneficiary." Report and Order at 83. This approach, according to the FCC gave interexchange carriers ("IXCs") flexibility in recovering costs.

It is PageMart's position that the Report and Order erred in adopting the "carrier pays" approach. Further, calling party pays is in the public interest because it is equitable, consistent with normal usage of a payphone and it is easily administered. Since the Commission has provided no facts to support its contention that calling party pays approach is burdensome, PageMart requests that the Commission reconsider this method of compensation.

## **THE COMMISSION SHOULD RECONSIDER CALLING PARTY PAYS**

The Commission denied the referenced commenters' requests for calling party pays because it would "unduly burden" transient payphone caller to pay the payphone costs as well as providing call--billing information. Report and Order at 85. The Commission further rejected caller pays as barred by TOCSIA.

However, the Commission never elaborated on the specific nature of the burden of depositing coins and providing billing information as the basis for its decision. Thus,

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<sup>1</sup> Paging Network, Inc. ("PageNet"), Comments at 7-8, Airtouch Paging, Inc. ("AirTouch"), Comments at 13-5, Arch Communications Group, Inc. ("Arch") Comments at 6.

<sup>2</sup> Intellicall Comments at 21; MobileMedia, Inc. ("MobileMedia") Reply at 10-11; PageNet Comments at 7.

the messaging industry is caught in a "because we said so" quandry, without any way to evaluate the Commission's rationale.

Further, the Commission rejected caller pays on its analysis of "operator services" definition in TOCSIA. However, the Commission did not consider that some 800 number messaging services fall outside of Section 226(a)(7)'s definition of "operator services." AirTouch Comments at 14 n52. TOCSIA defines an element of operator services as "any automatic or live assistance...to arrange for billing...of an interstate telephone call," Thus, 800 number messaging falls outside when calls are completed upon dialing of the number and the subscriber is billed for the call without automatic or live assistance. PageMart joins PCIA in its assertion that TOCSIA does not prohibit an advance compensation rule for 800 number calls made to messaging subscribers from payphones and thus, the caller pays scheme is acceptable under TOCSIA.

In addition, Section 226(e)(2) of TOCSIA is intended to ensure that payphone providers are compensated for two-way voice calls placed from their payphones if callers use the facilities of operator service providers without a contractual relationship with the payphone provider. Calls to a messaging subscriber, on the other hand, are not two-way voice communications and thus, an analysis of messaging services cannot rest on that rule section.

**IN THE ALTERNATIVE, THE COMMISSION SHOULD RECONSIDER  
AN INCREASE IN THE SUBSCRIBER LINE CHARGE AS COMPENSATION**

In the Report and Order at 85, the Commission opposes raising the subscriber line charge ("SC") on the basis that the goals of the Act would not be achieved since the payments would not be borne by the "primary economic beneficiary of payphone calls or the costs causer." The Commission should reconsider this decision because the public is the "primary economic beneficiary" of payphone calls, particularly 800 numbers from payphones. Further, because the SLC is in place, there will be no administrative

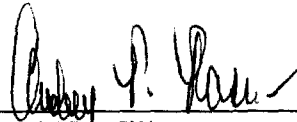
overhead to establish a funding mechanism and thus increased funds could be used to provide more access to telecommunications services, including payphone services.

**CONCLUSION**

For all of the reasons specified above, PageMart respectfully requests that the Commission reconsider its carrier pays compensation approach for PSPs. PageMart asks that a caller pays or coin drop approach would be more equitable. However, in the alternative, the Commission should spread the costs of payphone services over the general public by using a portion of SLC to compensate PSPs.

Respectfully Submitted,

**PAGEMART II, INC.**



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